

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re: Residential Capital, LLC	)	
	)	
Homecomings Financial LLC.	)	
	)	
GMAC Mortgage LLC.	)	Case No. 12-12020
	)	
Et-al	)	
	)	
Residential Capital, LLC	)	Chapter 11
c/o KCC	)	
2335 Alaska Avenue	)	
EL Segundo, Ca. 90245	)	

FILED  
U.S. BANKRUPTCY COURT  
2012 NOV 14 P 3:20  
S.D. OF N.Y.

NOTICE OF MOTION FOR RELIEF FROM AUTOMATIC STAY

Michael Wheeler has filed papers with the Court seeking relief from the automatic stay under rule 4001 (a), Federal rules of Bankruptcy Procedure, 9014.

This Motion is filed with the Court to allow for the continuation of a Civil Action against Homecomings Financial LLC, and GMAC Mortgage LLC.

The Civil action was filed with the Superior Court, Cobb County, Marietta Georgia 30090 on December 28, 2005. Case No. 05-1-10429-34, S. Lark Ingram, Judge.

Since the original filing of this Civil action, the Petitioner/Defendants have committed the criminal act of "THEFT BY CONVERSION", FORTY FOUR (44) COUNTS, as clearly described by O.C.G.A 16-8-4 2012. This is just the beginning of many offences'.

The Petitioner of the Bankruptcy Court (RESIDENTIAL CAPITAL, HOMECOMINGS FINANCIAL & GMAC MORTGAGE) should file a written response if there is an objection to this Motion, to the Bankruptcy Court for the Southern District of New York.

November 9<sup>th</sup>, 2012.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Michael Wheeler".

Michael Wheeler  
1728 Victoria Way NW  
Kennesaw, Georgia 30152  
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Pro-Se

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BRIEF IN SUPPORT OF MOTION FOR RELIEF FROM AUTOMATIC STAY

The Movant, Michael Wheeler states the following and that all statements are true and correct.

In September of 2002 a mortgage loan was made on a property known as 6 London Court,  
Cartersville Georgia 30120. Loan number 5477661 with Terrace Mortgage Atlanta, Georgia.

This mortgage loan was transferred or sold to Homecomings Financial LLC., the account number  
assigned by Homecomings Financial is #7434763876.

In September of 2004 a mortgage loan was made on a property known as 1728 Victoria Way,  
NW, Kennesaw Georgia 30152. With Equifirst Mortgage loan number 54766.

This mortgage was transferred or sold to Homecomings Financial LLC., the account number  
assigned by Homecomings Financial is #7438594632.

Both mortgage loans were transferred or sold immediately after there origination.

From the very first payment regarding each mortgage loan the escrow money was misused or not used at all, taxes not paid, payments converted to escrow even though each mortgage loan had its own escrow established at the closing of both mortgage loans.

Over the course of time I was in constant contact with Homecomings Financial, phone calls, letters, certified letters regarding the misuse of and conversion of monthly payment to escrow, as well as non-payment of property taxes for the London Court loan.

The time period as referenced covered a span of three years beginning in December of 2002 up until Homecomings Financial was served with my civil action on December 28, 2005 in the Superior Court, Cobb County Marietta, Georgia 30090.

During this time span every effort was made to aid and assist Homecomings Financial to correct the negligent record/bookkeeping. I was completely ignored in my efforts.

Almost seven years have past since the original civil action was filed against Homecomings Financial. GMAC Mortgage began servicing both mortgage loans during the calendar year of 2009, with devastating results.

Whereas delays were the main mode of action by the now named Defendants, with excessive damage to my credit rating resulting in damage of more than \$2,180,000.00 because of the negative reporting of the total dollar amounts of past due mortgage payments.

To date the dollar amount reported by GMAC Mortgage to all credit-reporting agencies, now total over \$116,000.00 for both mortgage loans.

1. Attached is a copy of the original civil action and copy of the first amendment to the original complaint, marked as EXHIBIT 1.
2. Attached is a copy of the most recent Superior Court action, Motion For Temporary Leave to Amend The Original Complaint. And a copy of Judge S. Lark Ingram's decision after oral arguments regarding the Defendants Motion For Summary Judgment. EXHIBIT 2.
3. Attached is a copy of a letter from GMAC Mortgage demanding money for what they claim are amounts past due. This is clear "EXTORTION", as the letters are threatening foreclosure. This money has already been paid. EXHIBIT 3.
4. Attached are copies of checks that were issued to GMAC Mortgage covering the period after September of 2009. Which proves that payments were made regarding the London Court mortgage loan. EXHIBIT 4.
5. Attached is a copy of the September 2012 statement for the London Court loan showing the date of the statement September 18, 2012, total amount due \$75,168.47, with the due date of September 1, 2009!  
Absolutely, not one single payment made was posted to this mortgage loan after September 1, 2009. EXHIBIT 5.
6. Attached is a copy of the most recent monthly mortgage statement regarding the London Court loan which shows the loan balance increased after the October 2012 payment was paid at Wells Fargo Bank on October 1, 2012. EXHIBIT 6.

The checks are factual proof of theft by conversion, which now total more than \$71,000.00, or 44 counts of theft by conversion as defined by O.C.G.A. 16-8-4 (2012).

7. Residential Capital, GMAC Mortgage have now resumed to there old tactics which violate there CONSENT ORDER with the Board of Governors of the Federal Reserve System and Federal Deposit Insurance Corporation, Washington D.C.

The document is forty seven pages (47), therefore attached is page one (1) and page forty seven (47), [www.federal/reserve.gov/newsevents/press/enforcement/20110413a.htm](http://www.federal/reserve.gov/newsevents/press/enforcement/20110413a.htm).

All documents included are copies of the originals, un-altered.

Due to the extended deadline rapidly closing/bar date, documents for Victoria Way mortgage loan are not included, however at the courts request these documents can be produced.

From the motion for Temporary Leave, Superior Court in Cobb County Georgia, "QUOTE" (the mortgage loan for Victoria Way is just as messed up as the London Court mortgage loan).

#### SUMMARY

My understanding of Title 11, 362(d) (1) & (f), I have no protection from the petitioners of the Bankruptcy Court (Residential capital, Homecomings Financial, GMAC Mortgage) if this Motion to leave the Automatic Stay is denied.

I am sixty six years old, retired and living on a fixed income, (depending on what the stock market does), and if both London Court and Victoria Way properties are foreclosed, who would make a mortgage loan to an individual who's credit report shows three single family homes foreclosed in the past six years. Lexington Plantation Lane was foreclosed in 2006.

My home in Kennesaw Georgia is a northwest suburban city of Atlanta, therefore making an appearance in person would most certainly be a hardship.

Photocopies of checks issued prior to July 1, 2012 have not been redacted the account was closed on July1, 2012. Checks issued after July1, 2012 are redacted.

I am of this opinion, Residential Capital, Homecomings Financial and GMAC Mortgage now feel they are under the protection of the Bankruptcy Court, therefore they can resume accepting my monthly mortgage payments (checks), but do not post each payment as required by contract. A pattern that has existed since the filing of my Civil Action dating back to 2006.

The previous paragraph is not to be construed in any manner other than what I have already proven to be material facts in a court of law before the honorable, S. Lark Ingram, Judge of the Superior Court, Cobb County Marietta, Georgia.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael Wheeler". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "Wheeler".

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